



Court for the Eastern District granted Petitioner's motion, ordered that the action be re-instated as a § 2254 petition for writ of habeas corpus, and that it be transferred to this Court where venue is proper. (Doc. No. 13.) The action was transferred here on March 30, 2018. (Doc. No. 14.)

## **II. RULE 2**

Rule 2(d) of the Rules Governing Section 2254 Cases in the United States District Courts requires that habeas petitions follow a specific format. Petitioner's habeas petition does not comply with that requirement. The Court will provide Petitioner an opportunity to comply with Rule 2(d). The Clerk of Court shall be directed to send Petitioner the correct form to complete, sign, and return. Petitioner shall be given a set amount of time to return the completed and signed form. Failure to return the form shall result in dismissal of this action without prejudice and without further notice from the Court.

## **III. IN FORMA PAUPERIS**


Federal law requires a petitioner seeking habeas review of his state conviction and/or sentence in federal district court pay a \$5.00 filing fee or be granted leave to proceed without prepayment of fees and costs. See 28 U.S.C. §§ 1914 and 1915. Rule 3(a)(2) of the Rules Governing Section 2254 Cases requires that a habeas petitioner seeking indigent status file "a motion for leave to proceed in forma pauperis, the affidavit required by . . . § 1915, and a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution."

The Court for the Eastern District of North Carolina denied Petitioner's in forma pauperis motion. (Doc. No. 10.) It did not reverse that decision when it re-opened this action. (Doc. No. 13.) Accordingly, Petitioner must either pay the \$5.00 filing fee or file another in forma pauperis motion.

**IT IS, THEREFORE, ORDERED** that:

1. The Clerk of Court shall send Petitioner a copy of this Order, a blank 28 U.S.C. § 2254 form, and a blank in forma pauperis application;
2. The Clerk of Court shall substitute Erik A. Hooks for State of North Carolina and Pat Hansen as the respondent in this action; and
3. Petitioner shall have twenty-one (21) days from entrance of this Order to: 1) pay the \$5.00 filing fee or file the in forma pauperis application, and 2) complete the § 2254 form, sign it under penalty of perjury, and mail it back to the Clerk of Court for the Western District of North Carolina.

Signed: April 2, 2018

  
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Frank D. Whitney  
Chief United States District Judge

